IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4137 OF 1991

Karsul V.K.S. Society Limited,
At & Post Karsul, Tal.Niphad,
Dist.Nashik through its Chairman,
Gulabrao Jayavantrao Wagh ...Petitioner

Versus

1.Shri Tukaram Dashrath Takate,

2.Smt.Vithabai Tukaram Takate,

3.Shri Vishnu Tukaram Takate,

4.Shri Balkrishna Tukaram Takate,

5.Shri Nivruti Tukaram Takate,

All residing at Village Karsul,
Tal.Niphad, Dist.Nashik.

6.The Asst.Registrar,
Co-op.Societies, Niphad,
Tal. & Dist.Nashik.

7.The Divisional Joit Registrar,
Co-op.Societies, Nashik Division,
Nashik.

8.The State of Maharashtra ...Respondents

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Mr.P.N.Joshi for Petitioner.

Mr.M.H.Solkar, A.G.P. for Respondents 6 to 8.

None for other Respondents.

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CORAM: A.M.KHANWILKAR, J.

JULY 23, 2004.

ORAL JUDGMENT :

1. This Petition takes exception to the Judgment and Order dated June 24, 1991 passed by the State Minister (Co-operative), Government of Maharashtra. Briefly stated, the Respondents were original members of the Petitioner Society. For some reason, they tendered resignation which was duly accepted by the Society. However, after some time, they made application for enrolling them as members afresh. That application was, however, rejected by the Society. Against the said decision, the Respondents carried the matter in appeal before the Assistant Registrar, Co-operative Societies, Niphad. The Appellate Authority, in turn, allowed the appeal by Judgment and Order dated October 25, 1988 and directed enrolment of the Respondents as members on certain conditions. Respondents being dissatisfied by the conditions imposed by the Appellate Authority, took the matter in appeal before the Divisional Joint Registrar, Co-operative Societies, Nasik Division, Nasik. The

appeal preferred by the Respondents was allowed and the condition imposed by the Appellate Authority for enrolling of the Respondents as members, was set-aside. Against that decision, the Petitioner Society carried the matter in Revision before the State Government. The Minister, by the impugned Judgment and Order, dismissed the Revision Application.

2. Mr.Joshi for the Petitioner Society contends that the direction to enrol the Respondents as members, in itself, is untenable and cannot be sustained. He further submits that in any case, the Divisional Joint Registrar committed manifest error in setting aside the condition imposed by the Appellate Authority, on which basis, the Respondents were to be enrolled as members and which decision has been erroneously confirmed by the Revisional Authority.

3. None appears for the contesting Respondents though served. Mr.Solkar, A.G.P. appears for Respondents 6 to 8.

4. Having gone through the records and having perused the decisions of the Authorities below, I find no substance in the grievance made on behalf of the Petitioner Society. Mr.Joshi for Petitioner is unable to point out any provision either in the Act or the Rules or for that matter, in the Bye-Laws, which would permit a situation that the resigned member is ineligible or disqualified for being re-enrolled as member, even if he complies with all the other requirements provided by Law for being enrolled as member. In other words, merely because the Respondents had resigned from the Society in the earlier point of time, alone cannot be the basis for rejecting their application. In that sense, the decision taken by the Society in rejecting their application for enrolment cannot be sustained.

5. In so far as the grievance made on behalf of the Petitioner Society that the Divisional Joint Registrar committed error in setting aside the condition imposed by the Appellate Authority is concerned, even this submission is devoid of any substance because the Divisional Joint Registrar

has found that the basis on which the Appellate Authority proceeded to issue direction against the concerned Respondents, was incorrect, inasmuch as the said Respondents had not withdrawn the share money from the account. In the circumstances, the Revisional Authority has rightly affirmed the view taken by the Divisional Joint Registrar. Accordingly, there is no substance in this Petition. The Petition therefore fails and the same is dismissed.

A.M.KHANWILKAR, J.